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United States District Court
Eastern District of Washington
(Honorable Judge Thomas O. Rice)

8 United States of America,
9 Plaintiff,

10 v.

11 Natasha Ann Opsal,
12 Defendant(s).
13
14

2:22-CR-00053-TOR

Sentencing Memorandum and Motion
for Downward Variance

15 Natasha Ann Opsal, through counsel, Zachary L. Ayers of Ayers Law Firm,
16 P.L.L.C., respectfully submits this sentencing memorandum and motion for downward
17 variance.
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19 **18 U.S.C. §3553(a)**

20 18 U.S.C. §3553(a) sets out factors that are helpful to the Court when
21 determining a sentence that is “sufficient but not greater than necessary” to comply
22 with the purposes of the statute. The District Court may not presume that the
23 guideline range is reasonable, nor should the guideline factors be given any more or
24 less weight than any other. *United States v. Carty*, 520 F.3d 984, 991 (9th Cir. 2008) *en*
25 *banc*, citing *Rita v. United States*, 127 S.Ct. 2456 (2007), *Gall v. United States*, 127 S.Ct.
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1 2833 (2007), and *Kimbrough v. United States*, 128 S.Ct. 558 (2007). The guidelines are
2 only one factor to be taken into account in arriving at an appropriate sentence. *Id.*

3 4 **Nature of the Offense**

5 Ms. Opsal understands the seriousness of this offense. She recognizes that she
6 fraudulently applied for Paycheck Protection Program funds and spent that money to
7 sustain her life and her significant drug addiction during the COVID-19 pandemic and
8 lockdowns. She also recognizes that her actions stole public funds from businesses
9 that actually needed the support when businesses all over the country were shut down
10 and could not pay employees or pay basic operating expenses during the height of the
11 COVID-19 pandemic and lockdowns.
12

13 14 **History and Characteristics of the Defendant**

15 Ms. Opsal appears to have no prior convictions. Her drug addiction and her bad
16 choices led to this conviction. During the pendency of her case, Ms. Opsal was
17 released. Her addiction and poor choices led her to pretrial incarceration. Her life has
18 had many ups and downs including learning who her biological father was and the
19 death of her mother. (PSIR ¶60).
20

21 22 **To Promote Respect for the Law**

23 A sentence of time served with a three-year term of supervised release is
24 sufficient but not more than necessary to promote respect for the law. This sentence
25 accounts for the poor choices Ms. Opsal understands she needs structure to succeed
26 on supervised release. She is homeless. If the Court orders her to serve time in a
27
28

1 Residential Reentry Center, it will give her the structure she needs to obtain legitimate
2 employment during supervision and beyond to pay off the significant restitution she
3 will owe.
4

5 **To Afford Adequate Deterrence to Criminal Conduct and Protection of**
6 **the Public**

7 Ms. Opsal does not have any previous felony convictions prior to the instant
8 case. A sentence of time served with three-years of supervised release affords adequate
9 deterrence to criminal conduct and protects the public.
10

11 **Motion for Downward Variance**

12 Ms. Opsal moves the Court for a downward variance from the low-end
13 guideline range of 12 months of incarceration to time served. Mr. Opsal will have
14 served approximately 6 months in the U.S. Marshals custody at the time of sentencing.
15 Although Ms. Opsal does not necessarily meet the requirements of the USSG 5K2.20
16 departure for aberrant behavior, her case meets the spirit of it. Her criminal history
17 category is I and she has no prior convictions. She has accepted responsibility for her
18 actions.
19
20

21 No death or serious bodily injury occurred in this case. No firearms were
22 involved in this case, and this was not a serious drug trafficking case. The only reason
23 this case does not meet the guideline is because the behavior may be repetitious or
24 significant planned behavior. *See*, U.S.S.G. §5K2.20 n. 2. There was repetitious
25 behavior, and this was a fraud scheme that Ms. Opsal conducted.
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1 **Conclusion**

2 Ms. Opsal respectfully requests the Court to sentence of time served, a 3-year
3 term of supervised release, no fine, and a \$100 special penalty assessment and
4 restitution in the amount of \$61, 247.
5

6 Dated this 6th day of April 2023.

7 Respectfully Submitted,

8 *s/Zachary L. Ayers*

9 WSBA # 46496

10 Attorney for Ms. Opsal.

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16 **Service Certificate**

17 I hereby certify that on April 6, 2023, I electronically filed the foregoing with
18 the Clerk of the Court using the CM/ECF System which will send notification of such
19 filing to the following: AUSA Daniel Fruchter and Frieda Zimmerman.
20
21
22

23 *s/Zach L. Ayers*

24 WSBA # 46496

25 Attorney for Ms. Opsal.

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